

**Before the
FEDERAL COMMUNICATIONS COMMISSION
Washington, DC 20554**

In the Matter of

Liberty Cablevision of Puerto Rico, Ltd.
Request for Waiver of 47 C.F.R.
§ 76.1204(a)(1)

CSR-7124-Z
CS Docket No. 97-80

**COMMENTS OF THE TELECOMMUNICATIONS
REGULATORY BOARD OF PUERTO RICO**

The Telecommunications Regulatory Board of Puerto Rico ("Board"), by its attorneys, submits these comments to urge the Federal Communications Commission ("FCC" or "Commission") to grant the waiver of Section 76.1204(a)(1) requested by Liberty Cablevision of Puerto Rico ("LCPR") in this proceeding.

The Telecommunications Regulatory Board of Puerto Rico was created in 1996 by the Legislature of Puerto Rico as an independent entity endowed with the authority to facilitate the improvement of telecommunications in Puerto Rico and to promote fair and effective competition. The legislation creating the Board, known as Law 213 of September 12, 1996, gave the Board powers to regulate the provision of cable television franchising, subject to the following general guidance

All actions, regulations and determinations of the Board shall be guided by the Federal Communications act, by the public interest and, especially, by the protection of consumer rights.¹

It is this later charge which compels the Board to support the waiver of LCPR. Many consumers in Puerto Rico need this waiver in order to be able to continue to receive cable television service.

¹ Act No. 213, 12 September 1996, Article 7(f).

LCPR's waiver request presents an easy case since LCPR has met the criterion for waiver established in the *BendBroadband Order* to have an all-digital cable network in place prior to the DTV transition in February 2009.² However, the Board submits these comments in an abundance of caution to emphasize the unique needs and circumstances of the market in Puerto Rico that make a waiver especially necessary and compelling for the protection of consumers.

The Commission has given little consideration yet to analyzing the unique costs that the integration ban would impose on consumers in Puerto Rico. For the Board, the protection of these consumers is its full time job. Now that the Commission must specifically evaluate the market in Puerto Rico in order to act on LCPR's request, it should be readily apparent that the markets for MVPD services and for competitive navigation devices are substantially different in Puerto Rico from the mainland United States. As a result of these differences, the integration ban would impose much more significant costs on Puerto Rican consumers, and would do so while producing comparatively fewer immediate benefits.

As LCPR has noted, the integration ban would increase the price of a leased "low-cost" set-top box by \$3-4 more per month. This price increase would have a disproportionate effect on Puerto Rican cable consumers, who on average have lower incomes and who are less likely to purchase a high-end set-top than consumers in the mainland United States. A price increase of this magnitude is a very serious concern to the Board, which has strived to reduce the costs of telecommunications and cable services to make them more accessible to all Puerto Rican consumers. The Commission should take into consideration the considerable disparity in household income between the Mainland U.S. and Puerto Rico. According to the U.S. Census Bureau, the average U.S. per capita income was \$21,587 in 1999.³ The comparable figure in Puerto Rico for that period was under \$12,997.⁴

² Bend Cable Communications, LLC d/b/a/ Bend Broadband, Request for Waiver of Section 76.1204(a)(1), CSR-7057-2, CS 97-80, DA 07-47 (January 10, 2007).

³ See <http://quickfacts.census.gov/qfd/states/00000.html>

⁴ See <http://www.jp.gobierno.pr.html>

Clearly, the Board must make significant efforts to bring cable services to the public, efforts that would be stymied by an unnecessary increase in consumer prices. Moreover, in 2006 cable TV penetration in Puerto Rico was only 22.3%, less than half the overall U.S. penetration of 58.8%.⁵ In actual numbers, the total number of 2006 cable subscribers in Puerto Rico is 316,818 households, compared with over 65 million households in the Mainland U.S. In other words, less than one-half of one percent of the total subscribing households are located in Puerto Rico and would be affected by this waiver. Yet these are the very subscribers who need to avoid this cost most.

It is far from clear that these extraordinary new costs would be worth it for consumers in Puerto Rico, at least at this time. Far fewer consumers in Puerto Rico, especially in the areas outside of San Juan where LCPR provides service, can afford the expensive CableCARD devices now offered at retail by the consumer electronics industry. As a result, fewer of these devices are even available in Puerto Rico. *There are no Circuit City or Best Buy stores anywhere in Puerto Rico, and TiVo does not support its service in Puerto Rico at this time.*⁶ Because there is comparably little demand for retail CableCARD devices in Puerto Rico, application of the integration ban to all of LCPR's set-top boxes is a solution for a problem that does not clearly exist in Puerto Rico.

The Board understands that some proponents of the integration ban contend that the integration ban will help to create both a supply of and demand for competitive, low-cost navigation devices that could benefit lower-income consumers. But that experiment can and should first be played out in the mainland United States, where consumers are better able to afford the costs of the ban. *If* application of the integration ban in the mainland eventually proves to have stimulated the development and adoption of retail navigation devices, and *if* consumer electronics companies begin to sell more CableCARD-ready devices that are suitable for and available in the Puerto Rican market, and *if* LCPR fails to provide adequate support for such devices, the Commission could revisit whether to apply the rule to LCPR. A waiver for consumers in Puerto Rico will

⁵ Source: Telecommunications Regulatory Board, internal statistics. National Cable and Telecommunications Association website: www.ncta.com/contentview.aspx?contentId=54.

⁶ <http://www-qa.tivo.com/support/faqs/mostpopular/mostpopularfaqlisting.html#faq6>.

not undermine the potential success of the integration ban in the mainland any more so than will its non-application in other parts of the Caribbean. By contrast, denial of the waiver would unnecessarily saddle Puerto Rican consumers with significant costs that many cannot afford to bear, pushing digital services out of reach for many. As the guardian of the interests of Puerto Rican telecommunications consumers, the Board therefore urges the Commission to grant LCPR's requested waiver.

Respectfully submitted,

Telecommunications Regulatory Board
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CERTIFICATE OF SERVICE

I, Cheryl Sinsabaugh, do hereby certify that on the 19th day of March 2007, I forwarded to the parties listed below a copy of comments from the Telecommunications Regulatory Board of Puerto Rico in Support of Requests for Waiver of 47 C.F.R. § 76.1204(a)(1) was sent via U.S. Mail postage paid first class to the following individuals on March 20, 2007:

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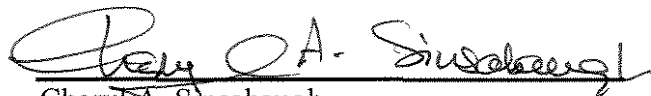
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